

BILL NO. S-74-06-02

SPECIAL ORDINANCE NO. S- 92-74.

AN ORDINANCE approving an Agreement with WAYNE  
ASPHALT AND CONSTRUCTION CO., INC. for  
improvement of Queen Street

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
WAYNE, INDIANA:

SECTION 1. The Agreement dated May 30, 1974, between the City of  
Fort Wayne, by and through its Mayor and the Board of Public Works and WAYNE  
ASPHALT AND CONSTRUCTION CO., INC. for improvement of Queen Street, as  
follows:

Paving Queen Street from the south property line of Manford  
Street to the south property line of Pontiac Street, to a width  
of 27 feet including curbs

for a cost of \$18,186.50 to be paid by the City and \$19,404.00 to be paid by the  
property owners under Barrett Law, all as more particularly set forth in said  
Agreement, which is on file in the Office of the Board of Public Works, and is  
by reference incorporated herein and made a part hereof, is hereby in all things  
ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from  
and after passage and approval by the Mayor.

William T. Linger  
Councilman

APPROVED AS TO FORM  
AND LEGALITY  
Red Bth  
CITY ATTORNEY

Read the first time in full and on motion by Stier, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 197\_\_\_\_, at \_\_\_\_\_ o'clock P.M., E.S.T.

Date: 6-11-74

Charles B. Westerman  
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Stier, and duly adopted, placed on its passage.

Passed (LOST) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
BURNS	<u>X</u>	_____	_____	_____
HINGA	<u>X</u>	_____	_____	_____
KRAUS	<u>X</u>	_____	_____	_____
MOSES	<u>X</u>	_____	_____	_____
NUCKOLS	<u>X</u>	_____	_____	_____
SCHMIDT, D.	<u>X</u>	_____	_____	_____
SCHMIDT, V.	<u>X</u>	_____	_____	_____
STIER	<u>X</u>	_____	_____	_____
TALARICO	<u>X</u>	_____	_____	_____

DATE: 7-7-74

Charles B. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 8-92-74 on the 9<sup>th</sup> day of \_\_\_\_\_, 1974.

ATTEST: (SEAL)

Charles B. Westerman  
CITY CLERK

Samuel J. Talarico  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10<sup>th</sup> day of July, 1974, at the hour of 11:00 o'clock A M., E.S.T.

Charles B. Westerman  
CITY CLERK

Approved and signed by me this 10<sup>th</sup> day of July, 1974, at the hour of 4:00 o'clock P. M., E.S.T.

John A. Leland  
MAYOR

Bill No. S-74-06-03

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance  
approving an Agreement with Wayne Asphalt and Construction Co., Inc.  
for improvement of Queen Street.

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance DO PASS.

William T. Hinga - Chairman

John Nuckols - Vice-Chairman

James S. Stier

Winfield C. Moses, Jr.

Paul "Mike" Burns

CONCURRED IN

DATE 1-9-74

CHARLES W. WESTERMAN, CITY CLERK

# CONTRACT

This Agreement, made and entered into this 30 day of May, 1974  
by and between --- WAYNE ASPHALT AND CONSTRUCTION CO., INC. ---

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve, by paying Queen Street from the south property line of Manford Street to the south property line of Pontiac Street, to a width of 27 Ft. including curbs.

by grading and paving the roadway to a width of twenty seven feet with including curbs  
8" Deep Strength Asphalt

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5659-1974 and at the following prices per lineal foot:

at the following prices:

Excavation - Regular	Four dollars and no cents, per cubic yard	\$ 4.00
Concrete Drive Approach 6" Plain	Ten dollars and no cents, per square yard	10.00
8" Deep Strength Asphalt	Eighteen dollars and no cents, per ton	18.00
Sidewalk or Wingwalk -5"	One dollar and seventy five cents, per square foot	1.75
Combined Curb & Gutter Straight-Radial)	Three dollars and fifty cents, per lineal foot	3.50
2" Rigid Pipe Conduit- Plastic or Steel	Two dollars and fifty cents, per lineal foot	2.50
Fine Grading	Fifty cents, per square yard	0.50
Seeding and Sodding (includes straw mulch)	One dollar and no cents, per square yard	1.00
Old Manhole Covers adjusted & set to grade	One hundred fifty dollars and no cents, each	150.00
New Inlets to be constructed 30" Diameter	Two hundred fifty dollars and no cents, each	250.00
Sewer Pipe Class IV	Ten dollars and no cents, per lineal foot	10.00
Backfill Gravel (Trenches & Structures) #73 Stone	Ten dollars and no cents, per cubic yard	10.00

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being Section 9459 of Burns Annotated Statutes, Volume IV). (Section 40-1214 Burns Annotated 1952 Revision - Volume VIII).

A copy of General Ordinance No. G-60-66, concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5659-1974 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally within 45 days after contract is approved by City Council and in all respects completed on or before XXXXXXXXXXXXX and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

date, 19   until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties herunto set our hands this \_\_\_\_\_

day of \_\_\_\_\_, 19\_\_\_\_

WAYNE ASPHALT AND CONSTRUCTION CO., INC.

BY: C. K. Stewart

ITS: \_\_\_\_\_

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

R. D. Boenig

Ronald L. Boyer

Ann A. Huber

Its Board of Public Works and Mayor.

MAY 30 1974



# GUARANTY BOND

Know All Men by These Presents, That we-----

-----WAYNE ASPHALT AND CONSTRUCTION CO., INC.-----Contractors

as principal, and UNITED STATES FIDELITY AND GUARANTY COMPANY, BALTIMORE, MARYLAND-----

-----as surety

are held and firmly bound to the City of Fort Wayne, Indiana, in the sum of THIRTY SEVEN THOUSAND,  
FIVE HUNDRED NINETY DOLLARS AND FIFTY CENTS-----

-----(\$37,590.50)  
for the payment of which well and truly to be made we jointly and severally bind ourselves, our heirs,  
executors, administrators and assigns firmly by these presents.

The conditions of the above obligation are, that whereas the said-----

-----WAYNE ASPHALT AND CONSTRUCTION CO., INC.-----

did on the-----day of-----

-----, enter into a contract with the City of Fort Wayne to construct a  
Street - 8" Deep Strength Asphalt Payment  
on Queen Street from the south property line of  
Manford Street to the south property line of Pontiac Street

-----according to certain plans and specifications, and  
for a period of three years  
also warranting and guaranteeing the work, material and condition of the pavement thereof as provided  
in aforesaid contract and specifications. Now if the said-----

WAYNE ASPHALT & CONSTRUCTION CO., INC.----- shall faithfully perform and fulfill all the require-  
ments of said warranty and guaranty, and make all repairs required under said guarantee, and in the  
manner provided for, then this bond to be null and void, otherwise to be in full force and effect.

28

May, 1974

WITNESS our hands and seals this-----day of-----  
YASTE, ZENT & RYE, INC.  
Authorized Agents

BY: *Arthur C. Zent*  
YASTE, ZENT & RYE, INC.

WAYNE ASPHALT & CONSTRUCTION CO., INC. (SEAL)

UNITED STATES FIDELITY & GUARANTY (SEAL)

BY: *James J. Zent* (SEAL)

Attorney-in-fact (SEAL)

Approved this 30 day of May, 1974

*Ronald A. Bonar*  
Ronald A. Bonar

Board of Public Works.

# LIABILITY BOND

Know All Men by These Presents, That we hereby certify that WAYNE ASPHALT AND CONSTRUCTION CO., INC. has insurance with this company, fully protecting and saving harmless and indemnifying the City of Fort Wayne, Indiana, from any losses in the amount of Five Thousand Dollars (\$5,000.00)

as principal, and \_\_\_\_\_

as surety, are held and firmly bound to the City of Fort Wayne, Indiana, in the sum of \_\_\_\_\_

for the payment of which well and truly to be made we jointly and severally bind ourselves, our heirs, executors, administrators and assigns firmly by these presents.

The conditions of the above obligation are such, that if the above named party of the first part shall faithfully comply with the foregoing contract made and entered into the \_\_\_\_\_

day of \_\_\_\_\_, with the City of Fort Wayne, Indiana, and shall faithfully fulfill all the conditions and stipulations therein contained, except the warranty and guaranty of the pavement as to the workmanship, material and conditions for the period of three(3) years, according to the true intent and meaning thereof in all respects, then this obligation to be void, otherwise to be and remain in full force and virtue in law and in the event the said City shall extend the time for the completion of said work, such extension shall not in any way release the sureties on this bond.

WITNESS our hands and seals this 28 day of May, 1974

YASTE, ZENT & RYE, INC.  
Authorized Agents

BY: Arthur C. Zwick  
YASTE, ZENT & RYE, INC.

WAYNE ASPHALT & CONSTRUCTION CO., INC. (SEAL)

BY: CK Stewart (SEAL)

UNITED STATES FIDELITY & GUARANTY

BY: Jane V. Duke (SEAL)

Attorney-in-fact

(SEAL)

Approved this 30 day of May, 1974

Ronald L. Bonar  
Board of Public Works.

COMPLETED IN STREET ENGINEERING DEPARTMENT

May 22, 1974

# GENERAL POWER OF ATTORNEY

No. 83680

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint

Lane I. Grile

of the City of Fort Wayne, State of Indiana, its true and lawful attorney in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said

Lane I. Grile

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 19th day of

April, A. D. 19 73

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By James A. Mappus Vice-President.

(SEAL) (Signed) John H. Aitken Assistant Secretary.

STATE OF MARYLAND,  
BALTIMORE CITY, MD

On this 19th day of April, A. D. 19 73 before me personally came

James A. Mappus, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and John H. Aitken, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they resided in the City of Baltimore, Maryland; that they, the said James A. Mappus and John H. Aitken were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 19 74

(SEAL) (Signed) Herbert J. Aull Notary Public.

STATE OF MARYLAND,  
BALTIMORE CITY, MD

Sct.

I, Robert H. Bouse, Clerk of the Superior Court of Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that, Robert J. Aull, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgments, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Superior Court of Baltimore City, the same being a Court of Record, this 19th day of April, A. D. 19 73

(SEAL) (Signed) Robert H. Bouse

Clerk of the Superior Court of Baltimore City.



# COPY OF RESOLUTION

**That Whereas,** it is necessary for the effectual transaction of business that this Company appoint agents and attorneys with power and authority to act for it and in its name in States other than Maryland, and in the Territories of the United States and in the Provinces of the Dominion of Canada and in the Colony of Newfoundland.

**Therefore, be it Resolved,** that this Company do, and it hereby does, authorize and empower its President or either of its Vice-Presidents in conjunction with its Secretary or one of its Assistant Secretaries, under its corporate seal, to appoint any person or persons as attorney or attorneys-in-fact, or agent or agents of said Company, in its name and as its act, to execute and deliver any and all contracts guaranteeing the fidelity of persons holding positions of public or private trust, guaranteeing the performances of contracts other than insurance policies and executing or guaranteeing bonds and undertakings, required or permitted in all actions or proceedings, or by law allowed, and

**Also,** in its name and as its attorney or attorneys-in-fact, or agent or agents to execute and guarantee the conditions of any and all bonds, recognizances, obligations, stipulations, undertakings or anything in the nature of either of the same, which are or may by law, municipal or otherwise, or by any Statute of the United States or of any State or Territory of the United States or of the Provinces of the Dominion of Canada or of the Colony of Newfoundland, or by the rules, regulations, orders, customs, practice or discretion of any board, body, organization, office or officer, local, municipal or otherwise, be allowed, required or permitted to be executed, made, taken, given, tendered, accepted, filed or recorded for the security or protection of, by or for any person or persons, corporation, body, office, interest, municipality or other association or organization whatsoever, in any and all capacities whatsoever, conditioned for the doing or not doing of anything, or any conditions which may be provided for in any such bond, recognizance, obligation, stipulation, or undertaking, or anything in the nature of either of the same.

**I, Richard Calder**, an Assistant Secretary of the UNITED STATES FIDELITY AND GUARANTY COMPANY, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney given by said Company to

**Lane I. Grile**

of **Fort Wayne, Indiana**, authorizing and empowering **him** to sign bonds as therein set forth, which power of attorney has never been revoked and is still in full force and effect.

And I do further certify that said Power of Attorney was given in pursuance of a resolution adopted at a regular meeting of the Board of Directors of said Company, duly called and held at the office of the Company in the City of Baltimore, on the 11th day of July, 1910, at which meeting a quorum of the Board of Directors was present, and that the foregoing is a true and correct copy of said resolution, and the whole thereof as recorded in the minutes of said meeting.

**In Testimony Whereof,** I have hereunto set my hand and the seal of the UNITED STATES FIDELITY AND GUARANTY COMPANY on

(Date) **May 28, 1974**

*Richard Calder*  
Assistant Secretary



SECRETARY BOARD OF DIRECTORS

REGISTERED COPY

DIGEST SHEET

D-74-06-03

TITLE OF ORDINANCE: Contract with Wayne Asphalt - Improvement of Queen StreetDEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract with Wayne Asphalt & Construction for  
improvement of Queen Street from Manford to Pontiac. This is a Barrett Law  
project on which the property owners will be paying \$19,404.00.

The project was petitioned by the property owners.

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EFFECT OF PASSAGE: Improvement of Queen Street which was remonstrated out on  
previous occasions.

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\_\_\_\_\_

EFFECT OF NON-PASSAGE: Failure of City to follow thru on improvement project for  
which property owners have committed willingness to participate in payment.

\_\_\_\_\_

\_\_\_\_\_

MONEY INVOLVED (Direct Costs, Expenditures, Savings): \_\_\_\_\_

Cost to City: \$18,186.50.

\_\_\_\_\_

\_\_\_\_\_

ASSIGNED TO COMMITTEE (J.N.):

Finance